

**THE
CASE
OF**

Sir THOMAS PILKINGTON, Kt.

(Now Lord Mayor of LONDON)

Sir Thomas Player, Kt. deceased; Slingisby Betbell, Esq;
Henry Cornish, Esq; deceased; Samuel Shute, Esq; de-
ceased; Samuel Swynock, John Deagle, Francis Jenkes,
deceased; Richard Freeman, John Jekyll, Robert Kaye and
John Wickam, all now, or late Citizens of London; as to
the Riot pretended to be committed by them in the
Election of Sheriffs in the Year 1682.

IT is an undoubted Truth, That nothing stood more in the way
of the Tyrannical and Popish Interest, than the Liberties and
Privileges of the City of London; and amongst those Liberties
and Privileges, the Power of Electing Sheriffs for London and
Middlesex was that which chiefly obstructed their Malicious
and Wicked Designs; and for that reason, their Principal Contrivance
was, to subvert and destroy such Right of Election, which they ac-
complished in a shameless and impudent manner, whereby the Strength

of the Conspiracy may appear, but not the least shew of Candor or Justice.

The Election of Sheriffs for *London and Middlesex*, and of many other Officers, belongs to the Citizens of *London* in Common-Hall assembled; and Elections have always been, or ought to have been made by the Majority of the Common-Hall: And when a Poll hath been demanded on the behalf of any in competition, it ought to be granted; and the Lord Mayor cannot by Proclamation, or otherwise, dismiss or dissolve the Common-Hall before the Poll is finished. And this was found to be the Custom in a time free from Faction, before the Lord Chief Justice *Vaughan* by a Jury of Citizens, in an Action upon the Case brought by *Mathusalem Turner*, against Sir *Samuel Sterling*, late Lord Mayor of *London*, as may be seen by the Record entred in the *Common Pleas* of Easter Term, 23 Car. II. Roll. 363. F O

At a Common-Hall, held the 24th of June 1682. a Poll having been begun and continued for several hours for the Election of Sheriffs for the said City and County of *Middlesex*, wherein *Tho. Papillon* and *John Duboys*, Esqs; and *Dudl. North* and *Ralph Box*, now Sir *Dudl. North* and Sir *Ralph Box*, were Competitors; the then Lord Mayor, Sir *John Moor*, with divers others in his Company, came from his House to *Guild-hall*, with great Shouts and Huzzas of his Companions, and disturbed the then Sheriffs in their Proceedings in taking the Poll, and took upon him, contrary to the Custom before-mentioned, to adjourn the Common-Hall before the Poll was finished, and made Proclamation for all People to depart, and so went back again in the same manner he came. And this may reasonably be concluded to be the result of the Advice given him by Sir *Leoline Jenkins*, then one of the Principal Secretaries of State, who dined with Sir *John Moor* that day, or at least was with him just before he came to *Guild-hall*, and was a great Adviser in this Affair; whose Opinion Sir *John Moor* (as is suppos'd) was pleased to take for the obstruction of the Free Election of Sheriffs, though he knew at the same time, the Court had caused Proceedings to be had against the City by *Quo Warranto* for the destruction and subversion not only of this Liberty of Election of Sheriffs, but also of all other the Privileges and Franchises of the City; and whether Sir *John Moor* did behave himself as an honest man, and good Citizen, to follow the Advice of an Enemy in a matter of this Consequence, let all indifferent men judge.

Notwithstanding this Disturbance by the Mayor, Sir *Thomas Pilkington* (now Lord Mayor) and *Samuel Shute*, Esquire, being then Sheriffs
of

of *London*, and (being advised by Eminent Lawyers, and Ancient Citizens, That the Taking and Adjourning of the Poll did belong unto them, and not unto the Mayor) proceeded in taking the Poll, and finished the same in a peaceable manner: upon the casting up whereof, it appeared that Mr. *Papillon* and Mr. *Dubois* were duly elected Sheriffs for the year ensuing by a very great Majority of above 1100 Voices; for which Proceeding, the said Sheriffs were within some short * time after committed by the Privy Council to the *Tower of London*, and an Information for a Riot, for the Cause abovesaid, was in 1682. exhibited by Sir *Robert Sawyer*, then the King's Attorney General, against them, and divers other Eminent Citizens. To which Information the said Sheriffs being brought to the Bar by *Habeas Corpus* to be bailed, were forced to plead presently; which they did, *Not guilty*; and Issue being thereupon joined, a *Venire facias Jur* was awarded to the Sheriffs, which ought to have been to the Coroner, the Sheriffs being Parties.

* June 26,
1682.

Sir *John Moore* finding that upon a fair Election he could never hope to do the Courts Drudgery, insisted, That by his *Prerogative* (as he called it) as Mayor, he had the Choice of one of the Sheriffs; and that he had named Sir *Dudley North* as such; and that the Common-Hall must confirm his Choice; and that if but One only Voice of all the Common-Hall was given for Sir *Dudley*, it was sufficient: And that he might have the other Sheriff of the like Qualifications, he did sometimes insist, That he had a Negative Voice upon the Election; and He and his Adherents so far prevailed upon the Court of Aldermen, that they took upon them to set aside the said Election, and appointed another to be the 5th of *July* following, and summoned a Common-Hall for that purpose; at which Mr. *Papillon* and Mr. *Dubois* were again duly elected by the like Majority of above 1100 Voices.

Notwithstanding this Majority, Sir *John Moor* and his Associates had the Confidence to declare Sir *Dudley North* and Mr. *Box* (now Sir *Ralph Box*) to be duly elected: Whereupon Sir *Ralph Box* desiring to be excused, chose rather to pay the usual Fine, than serve in that Office whereunto he was never elected.

After this, in *September*, another Common-Hall was held for the election of one Sheriff in the room of Sir *Ralph Box*, at which the like number of Voices were given for Mr. *Papillon* and Mr. *Dubois*, as at the former Common-Hall; and yet Sir *Peter Rich* (whose Name we could never learn was so much as put to Vote in order to Election) was declared elected by Sir *John Moore* and his Associates, without the least colour of Right or Justice.

On the 28th of *September*, Sir *John Moore* and his Adherents (after having filled *Guild-hall* with the Trained Bands, to terrifie such as opposed their unjust Proceedings) caused Sir *Dudley North* and Sir *Peter Rich* to be sworn Sheriffs: At which time Mr. *Papillon* and Mr. *Dubois* tendered themselves to be sworn, but were rejected.

The Conspirators against the Liberties of the City and Nation, laid this as a Ground-work to justifie what they had so unjustly done, and to punish the most Worthy and Active Citizens who opposed them in their Designs; thereby contriving, That these Sheriffs, thus unjustly imposed upon the City, should empannel Juries not only to try the best Citizens as Rioters and Malefactors for doing their duty, but also all such as had, or should, either in *London* or *Middlesex*, shew themselves English-men in opposing the Designs of the Court, which tended to the utter destruction of our Religion and Liberties. And, to speak truth, from hence, and from unduly imposing a Lord Mayor a short time after upon the City, may be justly dated the Loss, Ruine, and Mischief that hath since that time ensued in this Nation, not only to the loss and destruction of multitudes in their Lives, Liberties, and Families, but also to the great hazard of the utter Extirpation of the Religion and Liberties of English-men.

It may be remembred by the way, That whensoever Sir *John Moore* and his Party had occasion to use Counsel for the carrying on their Designs with some shew of Law, Mr. *Saunders*, afterwards Chief-Justice, and Sir *George Jeffries*, since Lord Chancellor, were the persons advised with, and heard before the Court of Aldermen, as to the Legality of Sir *John Moore's* Actions, &c. when Sir *John Moore* knew well, that the *Quo Warranto* against the City had been brought upon the Advice of the Former, and that the Other had often sworn the destruction of the City-Liberties, and that Both of them had sold themselves to do what mischief they could to the City and Nation: So that, had not Sir *John Moore* had a desire to be misled, he would never have asked or taken Advice from such Men in such a Concern. But to return to the Proceedings in *Westminster-Hall* upon the Information, where the Defendants found as much Partiality, and as little Justice, as in the City.

In *Michaelmas-Term*, 1682. several Motions were made on the behalf of the Defendants at the *Kings Bench-Bar*, That the *Venire facias Jur* might be awarded as the Law did direct, (which was to the Coroner): But all the Answer that was given, was, That the Defendants were well enough, and had no reason to complain, as the *Venire facias* was then awarded; when in truth they knew well, That had the *Venire* been once awarded

awarded to the Coroner, he must have returned the Jury, and then the Defendants might have expected an indifferent Trial; Mr. *Broome* the Coroner not being in the Conspiracy for the destruction of the Liberties of the City; and the awarding of the *Venire facias* being in all Cases the Act of the Court, the Court failed of their duty, in not ordering the same to be directed to the Coroner, according to Law: And the Law in this particular being well known to every Lawyer, is a strong Argument, That such failure of the Judges in their duty in so plain a Case, proceeded from *Corruption* rather than *Ignorance*, as will more fully appear by what follows.

In *Hillary-Term* following, several others of the Defendants pleaded to Issue to the said Information; after which the Attorney-General obtained a Rule of Court to amend the Record as he should think fit. The Defendants moved against this Rule, but in vain; and hereupon Mr. Attorney made a suggestion on the Roll, That Mr. *Pilkington* (now Sir *Thomas Pilkington*) and Mr. *Shute*, two of the Defendants, were Sheriffs of *London* at the time of the Plea pleaded; notwithstanding which, he prays the *Venire facias* may be awarded to the Sheriffs; which was done, and entred upon Record accordingly; and so that Issue, as to the Sheriffs, was continued to *Hillary-Term* following.

The Sitting after *Hillary-Term*, a Record and Writ of *Nisi Prius*, returnable in *Easter-Term* following, was brought down to be try'd at *Guild-hall*. Upon calling the Jury, the Lord *Grey* of *Werk*, one of the Defendants, challenged the Array, for that two Knights were not returned upon the Pannel; which Challenge was allowed by the late Chief-Justice *Saunders*, and the Trial for that time put off.

According to the Law, and the Course of the Court, that Record and Writ ought to have been returned and filed in the *Crown Office*, and no new *Venire facias* ought to have issued out for returning of a new Jury before the first day of *Easter-Term*; and there ought to have been fifteen days at the least between the *Teste* and Return of such *Venire facias*, otherwise the same, and all the Proceedings thereupon, ought, upon Motion to the Court of *Kings-Bench*, to be quashed: Yet notice was given for Trial of the said Cause to be had within fourteen days after the beginning of *Easter-Term*, upon a *Venire facias Jur' Teste* in *Hillary-Term* before; whereby, if the *Possea*, or Record of *Nisi Prius*, wherein the Lord *Grey's* Challenge, so allowed as aforesaid, had been filed, it would

would have appeared that there had been concurrent Process of the same nature upon the said Information, which was illegal ; and upon shewing such Process had issued out, the Court must have adjudged all Proceedings thereupon to be set aside , either before or after Verdict.

After Notice of, and before the Trial, the Defendants by their Council endeavoured several days to move the Court, That the Writ and Record of *Nisi Prius* last mentioned, might be filed, and for a Copy thereof; but could not be heard, by reason of Trials at Bar for several days, that hinder'd it; and thereupon they moved at the Side-Bar, and the Judges bid the Council move the Court; which could not be done until after the Trial, by reason aforesaid.

At the Trial, which was the 8th of *May*, 1683. before any of the Jury were sworn, two Challenges to the Array were in due manner made: The one was to this effect, That *Sir Dudley North* and *Sir Peter Rich*, who returned the Jury, were not Sheriffs of *London*: The other was, That the matter to be try'd was, *To try Sir Dudley North's Title to the Sheriffwick*; shewing in particular, how his Title would be in question: So that it appeared the Jury then return'd was to try, Whether he *had* Title or *not* to be Sheriff.

The Chief Justice *Saunders* over-ruled both these Challenges as frivolous: Whereupon the Defendants by their Council moved him to seal their Bill of Exceptions, which they tendred him in Court ready ingrossed for that purpose; but he then refused to seal it, and promised to do it at his Chamber, or to that effect.

Hereupon the Trial went on, and the Defendants were found guilty by direction of the said Chief-Justice, upon proof made, That some of them had continued together after the pretended Adjournment, and Proclamation made by *Sir John Moore*, then Lord Mayor; and that others had been at *Guild-hall* before such Adjournment, and others after all was over, the least breach of the Peace not being proved against any of them; and, amongst others, *Mr. Bethel* was found guilty, although he was not present at any time, at or near *Guild-hall*, when the pretended Ryot was committed.

Within Two or Three days after this Trial, the Defendants, by *Sir W. Williams*, and *Serjeant Thompson*, their Council, made application to the said Chief Justice *Saunders*, to Seal the Bill of Exceptions which had been tendered him in Court at the Trial, which he in a great rage refused, saying, That he was not such a Fool, to put his Seal to that which would set aside all had been done; or to that effect.

The

The next day the Defendants, by their Council, moved the Court of *King's Bench*; That the *Postea*, or Record of *Nisi Prius*, upon which the Lord Grey's Challenge had been allowed, and which was in the Custody of Mr. Ward, a Clerk of the *Crown-Office* (who Prosecuted for the King) might be filed; To which, the Judges then Sitting (*viz.*) Sir Thomas Jones, and Sir Francis Withens, answered, That it had been moved several times before, but was denied: But upon opening the Cause, they acknowledged the Motion to have been reasonable, if it had been moved before the Trial; and that if it should be now granted, it would set aside the Verdict. And then it was told them, That it had been moved before the Trial; But yet the Court would order nothing therein.

Not long after, the Defendants Council moved the Lord Keeper North for a Writ out of the *Chancery*, to be directed to the Chief Justice Saunders, to command him to Seal the said Bill of Exceptions; which he refused to grant, although such Writ is the Subjects Right, and is in the Register of Original Writs.

The Defendants being thus denied the benefit of the Law, were in *Trinity Term 1683*. for this pretended Riot Fined severally, as is under-written, by Sir Tho. Jones, and Sir Francis Withens, then Judges of the *King's-Bench*, were forced by Imprisonment and otherwise to pay the same.

	Marks,	l.	s.	d.
Sir Thomas Pilkington, —————	500			
Slingsby Berbel, Esq; —————	1000	666	13	4
Henry Cornish, Esq; —————	1000	666	13	4
Samuel Shute, Esq; —————	1000	666	13	4
Sir Thomas Player, —————	500	333	6	8
Samuel Swynock, —————	500	333	6	8
John Deagle, —————	400	266	13	4
Francis Jenkes, —————	300	200		
Richard Freeman, —————	300	200		
John Jekyll, —————	200	133	6	8
Robert Wye, —————	100	66	13	4
John Wickham, —————	100	66	13	4
Sum total,		4100		

Besides what the several Defendants above-written have paid for their Fines, they have been at very considerable expence in defence of them.

themselves; and in their Imprisonments, and have, to their great cost, this present Parliament, prosecuted a Writ of Error before the House of Lords, by virtue whereof, their Lordships have reversed the Judgment given against the Defendants, as erroneous, and the said several Fines having been paid into the Exchequer, the Defendants are informed, That the King is bound by the Laws to repay them upon exhibiting their Petitions requisite in that behalf.

Vide 34.
H. 6. 51.
Brook tit.
Petition 3.

Now, forasmuch as the Proceedings against the Defendants were for the most part illegal and arbitrary, and the Original Contrivance to subvert the Rights of the City, and to insnare the Defendants, was openly managed by Sir John Moore, and Sir Dudley North, and their adherents, and the whole Intreague was carried on by a Confederacy between them, the then Judges of the *Kings-Bench*, and the late Lord Keeper, as plainly appears by what is before related, designedly to subvert the Liberties of the City of *London*, and to oppress the Defendants for doing their Duty; and forasmuch as the said Fines never came to His present Majesty's use, and if His Majesty should pay the same, the Nation would in the end be the sufferer, and not the particular persons who did the wrong: It is humbly laid before this present Parliament, to consider the manifest wrongs the Defendants have suffered by such illegal and unjust Prosecution, and to make Them, their Executors, or Administrators, Restitution of all their Damages, out of the Conspirators Estates.

The Case of Sir Thomas
Pickerington now Lord
Mayor of London
1689

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